

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ERIC MOORE,

Petitioner,

v.

Case No. 05C0163

DANIEL BERTRAND,

Respondent.

ORDER

On February 11, 2005, Eric Moore filed a petition pursuant to 28 U.S.C. § 2254, asserting that his state court conviction and sentence were imposed in violation of the Constitution. Because the petition contained both exhausted and unexhausted claims, petitioner moved to stay his petition while he returned to state court to attempt to exhaust his claims. On October 17, 2005, I denied petitioner's motion and informed him that he could delete his unexhausted claims and proceed with this case. I directed petitioner to notify the court of his intention to delete the unexhausted claims on or before November 16, 2005. I warned petitioner that if he failed to voluntarily dismiss the unexhausted claims, I would dismiss the petition in its entirety. To date, petitioner has not notified the court of his intentions. Accordingly, I will dismiss petitioner's case for failure to demonstrate exhaustion of all the claims presented. This dismissal is without prejudice as it is procedural and not based on the merits of petitioner's claims. See Slack v. McDaniel, 529 U.S. 473 (2000).

For the reasons stated,

IT IS ORDERED that this case is **DISMISSED** without prejudice.

Dated at Milwaukee, Wisconsin this 31 day of December, 2005.

/s _____
LYNN ADELMAN
District Judge